

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

KENNETH T. MEYERS,

Plaintiff,

-v-

1:23-CV-173

DONNA BECKER *et al.*,

Defendants.

APPEARANCES:

OF COUNSEL:

KENNETH T. MYERS

Plaintiff, Pro Se

18604

Schoharie County Jail

P.O. Box 159

Howes Cave, NY 12092

DAVID N. HURD

United States District Judge

ORDER ON REPORT & RECOMMENDATION

On February 8, 2023, *pro se* plaintiff Kenneth T. Meyers (“plaintiff”) filed this action alleging, *inter alia*, that one of the named defendants violated his civil rights by making false statements about him in order to receive public assistance. Dkt. No 1. This action was initially closed because plaintiff failed to pay the filing fee or file an application to proceed *in forma pauperis* (“IFP Application”). Dkt. No. 3. Thereafter, plaintiff filed an IFP Application, Dkt.

No. 5, along with the inmate authorization form and prisoner trust fund account statement required of incarcerated litigants, Dkt. Nos. 7, 8.

On April 5, 2023, U.S. Magistrate Judge Christian F. Hummel granted plaintiff's IFP Application for the purpose of filing and advised by Report & Recommendation ("R&R") that plaintiff's complaint be dismissed with leave to amend. Dkt. No. 9. As relevant here, Judge Hummel recommended that plaintiff be given thirty days in which to file an amended pleading. *Id.*

Plaintiff has not filed objections. The time period in which to do so has expired. *See* Dkt. No. 9. Instead, plaintiff skipped ahead to the next step in this process: he submitted an amended complaint for review. Dkt. No. 10.

Upon review for clear error, the R&R will be accepted and adopted with a slight modification. *See* FED. R. CIV. P. 72(b). Because the thirty-day period for amendment initially recommended by Judge Hummel has been rendered unnecessary by plaintiff's unilateral filing of a new pleading, Dkt. No. 10, the amended complaint will be referred directly to Judge Hummel for review.

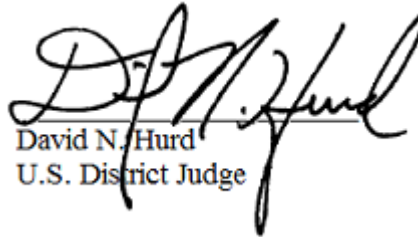
Therefore, it is

ORDERED that

1. The Report & Recommendation is ACCEPTED;
2. Plaintiff's complaint is DISMISSED without prejudice;
3. Plaintiff's amended complaint is REFERRED to the assigned Magistrate Judge for review.

IT IS SO ORDERED.

Dated: April 25, 2023
Utica, New York.



David N. Hurd
U.S. District Judge